

1 Michael E. Sullivan, Esq. #5142
Michael A. Burke, Esq., #11527
2 Hannah E. Winston, Esq. #14520
3 **ROBISON, SHARP, SULLIVAN & BRUST**
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4 Reno, Nevada 89503
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6 Telephone: (775) 329-3151
7 Facsimile: (775) 329-7169
Attorneys for Defendant
8 **COSTCO WHOLESALE CORPORATION**

9
10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 **LESLIE ANNE MAKO**, individually,

Case No.:

13 Plaintiff,

Second Judicial District Court

Case No.: CV20-02105

14 vs.

**DEFENDANT COSTCO WHOLESALE
CORPORATION'S PETITION FOR
REMOVAL**

15 **COSTCO WHOLESALE CORPORATION**, a
foreign Corporation dba **COSTCO**
16 **WHOLESALE #25; DOE EMPLOYEE**, an
individual; **DOES 1-10** does; **ROE**
17 **CORPORATIONS 11-20**; and **ABC LIMITED**
LIABILITY COMPANIES 21-30,

18 Defendants.
19 _____/

20
21 Defendant **COSTCO WHOLESALE CORPORATION**, a Foreign Corporation
22 ("Costco"), by and through its counsel of record, Michael E. Sullivan, Esq., Michael A.
23 Burke, Esq., and Hannah E. Winston, Esq., of the law offices of Robison, Sharp, Sullivan
24 & Brust submits this Petition for Removal of the above-captioned lawsuit entitled LESLIE
25 ANNE MAKO, individually vs. COSTCO WHOLESALE CORPORATION, a Foreign
26 Corporation dba COSTCO WHOLESALE #25; DOE EMPLOYEE, an individual; DOES 1-
27 10, does; ROE CORPORATIONS 11-20; and ABC LIMITED LIABILITY COMPANIES 21-
28 30, Case No. CV20-02105, assigned to DEPT. NO. 6, in the Second Judicial District Court
located in Washoe County, Nevada ("State Court") to this Court pursuant to 28 U.S.C.

§§1332(a), 1441, and 1446(b)(3).

I. COMPLIANCE WITH PROCEDURAL REQUIREMENTS

1. COSTCO was served with a copy of Plaintiff LESLIE ANNE MAKO's ("Plaintiff") State Court Summons and Complaint ("Complaint") on or about December 30, 2020. Thus, this removal is timely because the 30-day period for filing the removal has not passed. 28 U.S.C. §1446(b). Additionally, removal is timely because it is filed within one year from when Plaintiff filed the original complaint in the State Court action on or about December 29, 2020.

2. Pursuant to 28 U.S.C. §1446(a), COSTCO has attached a true and correct copy of the Complaint filed December 29, 2020 as **EXHIBIT "1"**, and a true and correct copy of CT Corporation's Service of Process Transmittal dated December 30, 2020 is attached as **EXHIBIT "2."**

3. COSTCO has provided and served a copy of the Petition for Removal on Plaintiff, LESLIE ANNE MAKO, and will timely file a copy of the Petition for Removal with the Clerk of the Washoe County District Court as required by 28 U.S.C. §1446(d).

4. COSTCO is informed and believes and hereon alleges that no other parties have appeared apart from itself and Plaintiff.

5. Removal from State Court to this Court is proper as this district embraces the place where the action is pending per 28 U.S.C. §1441(a).

II. BACKGROUND

6. Plaintiff has asserted in her Complaint a single cause of action for Negligence/Res Ipsa Loquitur against all Defendants arising out of an alleged personal injury which occurred in the Reno Costco warehouse. Plaintiff's foot was severely injured and required surgery after a forklift drove over her foot.

III. COMPLETE DIVERSITY OF CITIZENSHIP AS TO THE PARTIES

7. COSTCO is informed and believes that Plaintiff is a citizen of Nevada.

8. COSTCO is a corporation organized under the laws of the state of Washington and has its principal place of business in the State of Washington.

1 **IV. AMOUNT IN CONTROVERSY**

2 9. The amount in controversy in this action purportedly exceeds \$75,000. In
3 the instant action, Plaintiff sought unspecified damages in her Complaint for an alleged
4 injury. Counsel for Costco spoke with counsel for Plaintiff, who confirmed that Plaintiff's
5 medical bills had not been completely provided but were expected to be in excess of
6 \$75,000 for the hospitalization and surgery(s) of Plaintiff's foot that required partial
7 amputation. See **Exhibit "3"** (Declaration of Michael Sullivan, Esq.). Thus, the alleged
8 value of Plaintiff's damages exceeds \$75,000, exclusive of costs and interest.

9 DATED this 19th day of January, 2021.

10 ROBISON, SHARP, SULLIVAN & BRUST
11 71 Washington Street
12 Reno, Nevada 89503

13
14 By: 

15 MICHAEL E. SULLIVAN, ESQ.

16 MICHAEL A. BURKE, ESQ.

17 HANNAH E. WINSTON, ESQ.

18 Attorneys for Defendant

19 COSTCO WHOLESALE CORPORATION
20
21
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **DEFENDANT COSTCO WHOLESALE CORPORATION'S PETITION FOR REMOVAL** on all parties to this action by the method(s) indicated below:

_____ by placing true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

Brian D. Nettles, Esq.
Christian M. Morris, Esq.
Victoria R. Allen, Esq.
NETTLES | MORRIS
1389 Galleria Drive, Suite 200
Henderson, NV 89014

XX by using the Court's CM/ECF Electronic Notification System addressed to:

Brian D. Nettles, Esq.	brian@nettlesmorris.com
Christian M. Morris, Esq.	christian@nettlesmorris.com
Victoria R. Allen, Esq.	victoria@nettlesmorris.com

XX by email addressed to:

Brian D. Nettles, Esq.	brian@nettlesmorris.com
Christian M. Morris, Esq.	christian@nettlesmorris.com
Victoria R. Allen, Esq.	victoria@nettlesmorris.com

_____ by facsimile (fax) addressed to:

Brian D. Nettles, Esq.	(702) 434-1488
Christian M. Morris, Esq.	
Victoria R. Allen, Esq.	
NETTLES MORRIS	
1389 Galleria Drive, Suite 200	
Henderson, NV 89014	

_____ by Federal Express/UPS or other overnight delivery addressed to:

DATED this 19th day of January, 2021.



Employee of Robison, Sharp, Sullivan & Brust

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LESLIE ANN MAKO

(b) County of Residence of First Listed Plaintiff WASHOE

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Victoria Allen, Esq.

NETTLES MORRIS, 1389 Galleria Drive, Suite 200, Henderson, NV 89014, (702) 343-1488

DEFENDANTSCOSTCO WHOLESALE CORPORATION, a Foreign Corporation;
ABC CORPORATION I-X, inclusive; BLACK & WHITE CCounty of Residence of First Listed Defendant Washington

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Michael E. Sullivan, Esq. and Hannah E. Winston, Esq.
Robison, Sharp, Sullivan & Brust, 71 Washington Street
Reno, NV 89503, (775) 329-3151**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§1332(a), 1441, and 1446(b)(3)

Brief description of cause:

Personal Injury**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$
75,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):


JUDGE _____

DOCKET NUMBER _____

DATE

01/19/2021

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT “1”

EXHIBIT “1”

FILED
Electronically
CV20-02105
2020-12-29 09:09:06 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 8221586 : csulezic

1 BRIAN D. NETTLES, ESQ.
Nevada Bar No. 7462
2 CHRISTIAN M. MORRIS, ESQ.
Nevada Bar No. 11218
3 VICTORIA R. ALLEN, ESQ.
Nevada Bar No. 15005
4 NETTLES | MORRIS
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Henderson, Nevada 89014
5 Telephone: (702) 434-8282
6 Facsimile: (702) 434-1488
7 brian@nettlesmorris.com
8 christian@nettlesmorris.com
9 victoria@nettlesmorris.com
Attorneys for Plaintiff

10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

11 **IN AND FOR THE COUNTY OF WASHOE**

12 LESLIE ANNE MAKO, an individual,
13
14 Plaintiff,

CASE NO.:
DEPT NO.:

15 vs.

16 COSTCO WHOLESALE CORPORATION, a
17 foreign corporation d/b/a COSTCO
WHOLESALE # 25; DOE EMPLOYEE, an
18 individual; DOES 1 through 10; ROE
19 CORPORATIONS 11 through 20; and ABC
20 LIMITED LIABILITY COMPANIES 21
through 30,

COMPLAINT

21 Defendants.

22
23 COMES NOW, Plaintiff, LESLIE ANNE MAKO, by and through her counsel, Brian D.
24 Nettles, Esq., Christian M. Morris, Esq., and Victoria R. Allen, Esq. of the law offices of
25 NETTLES MORRIS, and for her causes of action against Defendants above named, complains
26 and alleges as follows:
27

28 ///

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Henderson, NV 89014
702.434.8282 / 702.434.1488 (fax)

STATEMENT OF JURISDICTION AND VENUE

1 1. The Second Judicial District Court has jurisdiction over this civil tort action
2
3 pursuant to NRCP 8(a)(4), NRS 13.040, and NRS 41.130 as the occurrence giving rise to this case
4 took place in Washoe County, Nevada and the amount in controversy exceeds \$15,000.00.

GENERAL ALLEGATIONS

5
6 2. Plaintiff LESLIE ANNE MAKO ("Plaintiff") is, and at all relevant times was,
7 an individual residing in Washoe County, Nevada.

8 3. Upon information and belief, Defendant COSTCO WHOLESALE
9 CORPORATION ("Defendant Costco") is, and at all relevant times was, a foreign corporation
10 doing business in Nevada as COSTCO WHOLESALE # 25.

11 4. Upon information and belief, Defendant DOE EMPLOYEE ("Defendant
12 Employee" or collectively with Defendant Costco as "Defendants") is, and at all relevant times
13 was, an individual residing in Washoe County, Nevada.

14 5. Upon information and belief, Defendant Costco owned, operated, maintained,
15 controlled, serviced, managed, occupied, and/or assumed liability of a retail and wholesale
16 business located at 2200 Harvard Way, Reno, Nevada 89502 commonly known as Costco
17 Wholesale # 25 ("Subject Premises"), for the purpose of carrying on a business for profit.

18 6. Upon information and belief, and at all times relevant, Defendant Employee was
19 an employee/agent of Defendant Costco acting in the course and scope of his employment at the
20 Subject Premises.

21 7. Plaintiff is informed, believes and thereon alleges that all of the acts, omissions
22 and conduct described below of each and every corporate Defendant was duly authorized, ordered,
23 and directed by the respective and collective Defendant corporate employers, officers, and
24 management-level employees of said corporate employers. In addition thereto, said corporate
25 employers participated in the aforementioned acts and conduct of their said employees, agents and
26 representatives and each of them; and upon completion of the aforesaid acts and conduct of said
27 corporate employees, agents and representatives, the Defendant corporations, respectively and
28 collectively, ratified, accepted the benefits of, condoned, lauded, acquiesced, approved, and

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1 consented to each and every of the said acts and conduct of the aforesaid corporate employees,
2 agents and representatives.

3 8. The true names and capacities, whether individual, corporate, associate,
4 governmental or otherwise, of defendants Does 1 through 10, Roe Corporations 11 through 20
5 and ABC Limited Liability Companies 21 through 30 (“Does/Roe/ABC Defendants”), inclusive,
6 are unknown to Plaintiff at this time, whom therefore sue said defendants by such fictitious names.
7 When the true names and capacities of said defendants have been ascertained, Plaintiff will amend
8 this Complaint accordingly.

9 9. On information and belief, Does/Roe/ABC Defendants participated in the
10 design, construction, maintenance, ownership, management, control, operation, care, and/or
11 upkeep of the Premises; Does/Roe/ABC Defendants include, but are not limited to, owners,
12 operators, occupiers, lessees, managers, manufacturers, developers, producers, general
13 contractors, subcontractors, security companies, maintenance companies, material providers,
14 equipment providers, architects, designers, engineers, governmental authorities, insurers, lenders,
15 investors, and their agents, servants, representatives, employees, partners, joint venturers, related
16 companies, subsidiaries, parents, affiliates, predecessors, partners and/or successors in interest.

17 10. On information and belief, Does/Roe/ABC Defendants are responsible,
18 negligently or in some other actionable manner, for the events and happenings hereinafter referred
19 to, and caused injuries and damages proximately thereby to Plaintiff as hereinafter alleged.

20 11. On information and belief, Does/Roe/ABC Defendants were involved in the
21 initiation, approval, support or execution of the wrongful acts upon which this litigation is
22 premised, or of similar actions against Plaintiff of which Plaintiff is presently unaware.

23 12. On or about January 3, 2019, Plaintiff was an invitee of the Subject Premises
24 when Defendant Employee, who was operating a forklift (the “Subject Forklift”), collided into
25 Plaintiff with the Subject Forklift, causing her to fall hard to the ground and incur injuries (the
26 “Subject Incident”).

27 13. On information and belief, the Subject Forklift was a hazard that Defendants
28 should have remedied and/or warned of prior to the Subject Incident. Further, the Subject Forklift

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1 was an unmarked hazard that was created by Defendants and/or was a hazardous condition of
 2 which Defendants had actual or constructive notice prior to the Subject Incident.

3 14. On information and belief, the negligent acts or omissions referenced herein
 4 were committed by Defendant Costco's agents/employees while in the course and scope of their
 5 employment. Under the doctrine of *respondeat superior*, Defendant Costco is liable for such
 6 negligent acts or omission.

7 15. Defendants' acts and omissions were grossly negligent, intentional, willful,
 8 wanton, oppressive, malicious, and done with disregard to the rights of the safety of others,
 9 including Plaintiff. Further, such actions were ratified and/or directed by an officer, director or
 10 managing agent of Defendant Costco.

11 16. As a direct and proximate result of the acts and omissions of Defendants, and
 12 each of them, Plaintiff was required to obtain medical services and treatment and will likely be
 13 required to obtain additional medical services and treatment.

14 17. As a further direct and proximate result of the acts and omissions Defendants,
 15 and each of them, Plaintiff suffered severe injury and pain and suffering.

16 18. As a further direct and proximate result of the acts and omissions Defendants,
 17 and each of them, Plaintiff suffered loss of income and lost earning potential.

18 19. Plaintiff has been damaged by the acts and omissions of Defendants, in an
 19 amount in excess of \$15,000.00.

20 20. As a direct and proximate result of the actions or omissions of Defendants,
 21 Plaintiff has had to retain the services of the law offices of Nettles | Morris to pursue this action
 22 and is entitled to recover costs of suit and reasonable attorney's fees incurred herein.

23 **FIRST CAUSE OF ACTION**

24 **(Negligence/Res Ipsa Loquitur against All Defendants)**

25 21. Plaintiffs incorporate by reference each and every allegation previously made
 26 in this Complaint as if fully set forth herein.
 27
 28

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22. At all relevant times, Defendants, and each of them, owed non-delegable duties of care to Plaintiff to maintain the Subject Premises in a reasonably safe condition and free of hazards.

23. Defendants, and each of them, also owed a non-delegable duty of care to remedy and/or warn Plaintiff of the existence of dangerous conditions, such as the Subject Forklift.

24. On information and belief, Defendants, and each of them, employees breached the non-delegable duties it owed to Plaintiff by creating and/or knowingly and/or negligently allowing a hazardous condition, the Subject Forklift, to exist at the Subject Premises at the time of the Subject Incident, and by consciously, deliberately, and/or negligently failing to take any measure to inspect for, remedy, and/or to warn of the presence of the Subject Forklift, resulting in the Subject Incident.

25. The Subject Incident is the kind of incident that does not normally occur in the absence of negligence.

26. The Subject Incident was caused by the Subject Forklift, an agency or instrumentality within the exclusive control of Defendants, and each of them.

27. Defendants, and each of them, have superior knowledge of, or are in a better position to explain, the Subject Incident than is Plaintiff.

28. Plaintiff allege that the Subject Incident is inexplicable without negligence and that the doctrine of Res Ipsa Loquitur requires a finding of breach of a duty owed by Defendants, and each of them.

29. Breach of the aforementioned duties by Defendants, and each of them, were the legal and proximate cause of Plaintiff's damages

30. Plaintiff has been damaged as described above by the acts and omissions of Defendants, in an amount in excess of \$15,000.00.

SECOND CAUSE OF ACTION

(Negligent Hiring, Training, Retention, and Supervision against Defendant Costco)

31. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

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32. On information and belief, Defendant Costco entrusted the Subject Forklift to Defendant Employee, an inexperienced and/or unfit operator.

33. Defendant Costco owed Plaintiff a non-delegable duty to exercise due care in the selection of whom it entrusted to operate the Subject Forklift.

34. Defendant Costco breached that duty by entrusting the Subject Forklift to Defendant Employee, resulting in the Subject Incident and injuries to Plaintiff.

35. Defendant Costco's negligent entrustment of the Subject Forklift was an actual and proximate cause of Plaintiff's injuries.

36. Plaintiff has been damaged as described above by the acts and omissions of Defendants, in an amount in excess of \$15,000.00.

THIRD CAUSE OF ACTION

(Negligent Hiring, Training, Retention, and Supervision against Defendant Costco)

37. Plaintiffs incorporate by reference each and every allegation previously made in this Complaint as if fully set forth herein.

38. Defendant Costco owed a non-delegable duty to Plaintiff to exercise due care in the selection, training, oversight, direction, retention, and control of its employees/agents, including Defendant Employee.

39. Defendant Costco breached its non-delegable duty to Plaintiff by failing to properly select, train, oversee, direct, retain, and control Defendant Employee, an unfit and/or inexperienced operator.

40. Plaintiff has been damaged as described above by the acts and omissions of Defendants, in an amount in excess of \$15,000.00.

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///

///

NETTLES | MORRIS
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Henderson, NV 89014
702.434.8282 / 702.434.1488 (fax)

1 **WHEREFORE**, Plaintiff prays for relief against Defendants, and each of them, as
2 follows:

- 3 1. For damages in a sum in excess of \$15,000.00 for medical expenses, pain
4 and suffering, and lost wages/lost earning capacity;
- 5 2. For punitive damages;
- 6 3. For interest as permitted by law;
- 7 4. For reasonable attorney's fees and costs of suit; and
- 8 5. For such other and further relief as the Court deems just and proper.

9 DATED this 29th day of December, 2020.

10
11 NETTLES | MORRIS

12
13 /s/ Victoria R Allen

14 BRIAN D. NETTLES, ESQ.

15 Nevada Bar No. 7462

16 CHRISTIAN M. MORRIS, ESQ.

17 Nevada Bar No. 11218

18 VICTORIA R. ALLEN, ESQ.

19 Nevada Bar No. 15005

20 1389 Galleria Drive, Suite 200

21 Henderson, Nevada 89014

22 Attorneys for Plaintiff
23
24
25
26
27
28

Exhibit “2”

Exhibit “2”



**Service of Process
Transmittal**

12/30/2020

CT Log Number 538820487

TO: Laura Aznavoorian, Litigation Supervisor
Gallagher Bassett Services, Inc.
1901 S. Meyers Rd, Suite 200C
Oakbrook Terrace, IL 60181

RE: Process Served in Nevada

FOR: Costco Wholesale Corporation (Domestic State: WA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: LESLIE ANNE MAKO, etc., Pltf. vs. COSTCO WHOLESALE CORPORATION, etc., et al.,
Dfts.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # CV2002105

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Carson City, NV

DATE AND HOUR OF SERVICE: By Process Server on 12/30/2020 at 01:04

JURISDICTION SERVED : Nevada

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 12/30/2020, Expected Purge Date:
01/14/2021

Image SOP

Email Notification, Laura Aznavoorian laura_aznavoorian@gbtpa.com

Email Notification, Zois Johnston zjohnston@costco.com

Email Notification, Maureen Papier maureen_papier@gbtpa.com

REGISTERED AGENT ADDRESS: C T Corporation System
701 S. Carson Street
Suite 200
Carson City, NV 89701
866-665-5799
SouthTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

Exhibit “3”

Exhibit “3”

1

Exhibit “4”

Exhibit “4”

